

## **REMARKS**

The following remarks are submitted in response to the Office Action communication dated November 3, 2009, wherein the shortened statutory period for response expired on February 3, 2010. Accordingly, Applicants petition herewith for a one-month extension of time.

Upon receipt of the aforementioned Office Action, Applicants' claims 1, 3-6, 8-11 and 13-17 were pending in the subject application. Claims 1, 3, 5-6, 8-11, 13 and 15-17 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0065752 (hereinafter "Lewis"). Claims 4 and 14 currently stand rejected under the statutory provisions of 35 U.S.C. §103(a) as being unpatentable over Lewis in view of U.S. Patent Application Publication No. 2001/0051909 (hereinafter "Keith").

In the present response, Applicants have proposed further amending the claims, as reflected under the heading "Listing of Claims" beginning on page 2 of this paper, to more clearly distinguish the patentable subject matter of the claimed invention. In addition, Applicants submit the following remarks wherein the Examiner's foregoing rejections are respectfully traversed.

### **Rejection of Claims under 35 U.S.C. § 103(a)**

In rejecting previously presented claims 1, 11 and 17, the Examiner asserts that all of the limitations recited in these independent claims are shown or suggested by the disclosure of Lewis. *Office Action, Page 3*. Claims 1, 11 and 17 recite, respectively, a system, method and program storage device for offering a financial instrument across a plurality of different types of trading platforms, at least two of the trading platforms employing different trading protocols for a two-way exchange of trading information.

Pursuant to MPEP § 2142, to establish a *prima facie* case of obviousness, and thus sustain the rejection of a claim under 35 U.S.C. § 103(a), there must be a clear articulation of the reasons why Applicants' claimed invention would have been obvious. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). The Supreme Court in *KSR* has further noted that an analysis supporting a rejection under 35 U.S.C. § 103(a) should be made explicit. Therefore, it is clear that an obviousness rejection "cannot be sustained with mere conclusory statements; instead,

there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977 (Fed. Cir. 2006). Moreover, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” MPEP § 706.02(j).

Without conceding the propriety of the rejection, but solely to advance prosecution of the claimed invention, Applicants have proposed further amending the claims, as reflected under the heading “Listing of Claims” beginning on page 2 of this paper, to more clearly distinguish the claimed invention. More specifically, Applicants have amended the relevant claims to recite a two-way exchange of trading information between the different types of trading platforms employing different trading protocols. Support for this amendment can be found at least in paragraphs [0028] to [0047] of Applicants’ published patent application (i.e., U.S. Patent Application Publication No. 2005/0015324).

In the present Office Action, the Examiner asserts that Lewis discloses an offering of a financial instrument posted in a primary trading platform (i.e., the source systems of Lewis), which allegedly employs a proprietary transaction communication protocol, that is simultaneously offered in one or more secondary trading platforms (i.e., servers 110, 111 and 112 of Lewis), which allegedly employs a standardized transaction communication protocol. This simultaneous posting of the financial instrument offering is allegedly mediated by an interface in Lewis referred to as the Information Transformation Server (“AIS”).

Contrary to the Examiner’s assertion, Applicants respectfully submit that the foregoing alleged disclosures in Lewis are deficient in teaching all of the limitations of the claimed invention and, therefore, fail to properly establish a *prima facie* case of obviousness under the statutory provisions of 35 U.S.C. §103(a). More specifically, Applicants submit that there is no teaching or suggestion of a two-way communication between the source systems (i.e., the primary/source trading platform) and the servers (i.e., the secondary trading platforms) of Lewis. For example, referring to Figure 16 of Lewis, which is made reference to in the present Office Action, it is shown that proprietary transactions provided by the source systems are standardized and communicated to the AIS. The AIS is configured to provide financial data updates to databases in accordance with predefined posting rules. However, there is no disclosure that the

AIS communicates back to the source systems in response to the posting of an alleged financial instrument offering. In fact, Applicants submit that there is no teaching or suggestion whatsoever that any of the servers in Lewis are synonymous with trading interfaces, nor is there a teaching or suggestion that the system of Lewis is configured for posting an offering of a financial instrument for purposes of trading the same. The servers of Lewis are merely post-transactional record keeping systems, not trading interfaces.

As suggested by the Supreme Court in *KSR*, “[t]o support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” It is clear that the alleged prior art reference does not expressly or impliedly disclose posting an offering of a financial instrument across different trading platforms, as prescribed by Applicants’ claimed invention. Accordingly, Applicants respectfully submit that the rationale provided in the present Office Action does not sufficiently establish a convincing line of reasoning as to why one of ordinary skill in the art would have envisioned the limitations of the claimed invention in light of the teachings of Lewis. For at least these reasons, as well as those presented in preceding responses, the claimed invention, as currently amended, is neither shown nor suggested by the teachings of Lewis, whether taken independently or in combination with any other alleged prior art reference.

Applicants also continue to submit that Keith fails to correct the deficiencies presented in this paper in connection with Lewis. Since the Examiner has not yielded any clear articulation as to the application of Keith with respect to the limitations presented in Applicants’ independent claims, particularly the limitation identified above as lacking from the teachings of Lewis, Applicants respectfully submits that these deficiencies apply with equal force to the rejection of dependent claims 4 and 14.

In view of the foregoing remarks, independent claim 1, claims 3-6 and 8-10 which depend therefrom, independent claim 11, claims 13-16 which depend therefrom, and independent claim 17 are not rendered obvious by the teachings of Lewis. Accordingly, Applicants respectfully request that the rejection of these claims under 35 U.S.C. § 103(a) be withdrawn.

**Conclusion**

For at least the reasons set forth above, this patent application, as amended, is now in condition for allowance. Reconsideration and prompt allowance of this patent application are respectfully requested.

If it will advance the prosecution of this patent application, the Examiner is urged to telephone (973.597.6326) Applicants' undersigned representative. All written communications should continue to be sent to the address provided below.

Respectfully submitted,

Lowenstein Sandler PC  
65 Livingston Avenue  
Roseland, NJ 07068

Dated: March 3, 2010

By: s/David Toma/

David Toma, Esq.  
Attorney for Applicants  
Reg. No. 57,380